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U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



June 2, 1994

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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JUN 2 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: General Docket No. 90-314
PP Docket No. 93-253

Dear Mr. Caton:

The U. S. Small Business Administration ("SBA"), pursuant to Section 1.1206(a)(2) of the Commission's Rules, hereby notifies the Commission that representatives of SBA met with employees of the FCC on two occasions. On May 24, 1994, SBA representatives met with William E. Kennard, General Counsel; Peter A. Tenhula, General Counsel's Office; Sara Seidman, General Counsel's Office; and Jonathan Cohen, Office of Plans and Policy. The matters discussed were in substance the topics later described in the letter dated May 26, 1994 from SBA's General Counsel to Mr. Kennard, a copy of which is attached. On June 1, 1994, SBA representatives met with the same FCC employees identified above, with the addition of Donald Gips, Deputy Chief, Office of Plans and Policy. The matters discussed were the contents of the same May 26, 1994 letter. An original and one copy of this notification has been submitted to the Secretary.

If you have any questions regarding this matter, please contact me at 205-6645.

Sincerely,

David R. Kohler
Associate General Counsel
for General Law

cc: Mr. William E. Kennard
Mr. Peter A. Tenhula
Ms. Sara Seidman
Mr. Jonathan Cohen
Mr. Donald Gips

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U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416



OFFICE OF GENERAL COUNSEL

May 26, 1994

William E. Kennard, Esquire
General Counsel
Federal Communications Commission
1919 M Street, N.W.
Washington, DC 20554

RE: Broadband PCS

Dear Bill:

In preparation for our next meeting, we have some suggestions for your consideration.

1. Designated Entities.

In order to qualify as a designated entity, a prospective licensee should meet the following guidelines:

(a) "Small" entities are those whose average annual gross receipts over the prior three (3) years have not exceeded \$40 million.

(b) At least twenty percent (20%) of the ownership of all small entities (also representing majority voting control for all purposes) shall be held by individuals or firms which themselves meet the \$40 million gross receipts test.

(c) To facilitate access to capital, up to eighty percent (80%) of small entities (including up to, but not more than, a minority voting interest), may be owned by nonqualifying individuals or entities, except that no non-designated entity licensee, or affiliate thereof, should own any interest in any designated entity licensee. (This rule would apply to all designated entity licensees, whether or not "small" for our purposes.)

(d) Standard attribution or affiliation rules (based on related structures, common ownership, family ties, etc.) would apply to all entities. We suggest using SBA's

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administrative procedures for disputes as a model (self-certification; protests by other bidders; expeditious administrative review; limited rights of discovery and appeal; etc.).

(e) For "non-small" designated entities, at least a majority ownership must be held by one or more individuals or firms who qualify as designated entities (small, women, minority or rural). The remaining ownership interest may be held by anyone except a non-designated licensee or its affiliates.

2. Restrictions on Transfer.

We feel strongly that ownership of "designated entity" licenses should be restricted to designated entities for a minimum period of ten (10) years. Any owner seeking (or forced) to sell during that period would be permitted to do so only to a buyer qualifying as a designated entity at the time of sale. This rule would play a central role in complying with your statutory mandate.

3. Set Asides.

It is vital that designated entities receive spectrum block set asides at least as favorable as those the Commission proposed earlier. Other incentives also are welcome, but none of them will be effective in promoting license ownership by designated entities if a portion of the spectrum is not allocated to designated entities only.

4. Trading Areas.

We recommend that you not create trading areas larger than BTAs and that you not allow ownership of geographically contiguous BTAs. The adverse effect on competition of large MTAs or consolidated groups of BTAs will outweigh any positive benefits otherwise derived from them.

5. Spectrum Allocation.

To promote competition, we prefer that spectrum blocks be limited to 20 MHz and 10 MHz (with no 30 MHz) blocks, or at least that your allocation be no less favorable in this regard than originally proposed. Separate bidding should be required (no combinatorial bidding).

6. Contract Set Asides.

We believe that one of the most important steps that the Commission can take in connection with the Auction is to require that all licensees allocate at least twenty-five percent (25%) of their outside contracting for infrastructure to businesses that are small (as determined

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by reference to SBA's applicable size categories), and that they award such contracts after fair and open competition, whenever possible. In this regard, SBA can be directly helpful to the Commission. We have a nationwide network of contracting specialists who can assist in everything from outreach to monitoring. The likely outcome of such an approach would be a significant increase in the involvement of designated entities in the provision of PCS services.

Please call if you have any questions before Tuesday. We look forward to discussing these matters with you and your staff at our meeting.

Sincerely,



John T. Spotila
General Counsel

JTS/s